IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Amar Singh & Ors. Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.1219/2006

DATE OF ORDER :: November 14, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Pradeep Shah, for the petitioners.
Mr.Ashok Upadhyaya, P.P.
Mr. Sanjay Nahar, for non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners have challenged the order dt.21.8.2006 passed by the Chief Judicial Magistrate, Bhilwara (for short 'the trial court' hereinafter) as also seek quashing of criminal proceeding in Criminal Regular Case No.314/2000 pending before the trial against the present petitioners instituted on the report lodged by non-petitioner No.2.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioners and the counsel appearing for the complainant non-petitioner No.2 that the parties have compromised the matter and settled the dispute amicably.

On the report lodged by non-petitioner No.2, the police investigated the matter and filed the challan against the present petitioners for the offence under section 498-A I.P.C., for which the trial is pending before the trial court. During pedency of the trial, the parties have settled the dispute and decided to live separately by dissolving the marriage solemnized between them; for which an application seeking dissolution of marriage by mutual consent was filed before the competent court and the marriage between the parties has been dissolved by mutual consent. The parties have also decided not to pursue any matter instituted by each other, more particularly, the complainant has decided not to prosecute the case on her report against the present petitioners and, therefore, filed a compromise before the trial court seeking compounding the offence. The trial court dismissed the application by order impugned on the ground that the offence under section 498-A I.P.C. is not compoundable. Hence, this petition.

It appears that the decree of dissolution of marriage by mutual consent under section 13(B) of Hindu Marriage Act, 1955 has been passed and there had not been any dispute with regard to the dowry articles. The complainant stated before the trial court that under the misconception, the report was lodged by her and, therefore, the allegation of harassment or cruelty was levelled under misconception and by persuasion of reputed persons of the society, the parties have compromised the matter and got dissolved the marriage. From the certified copy of the compromise filed by before trial court and the order passed thereon on 21.8.2006, it appears that the complainant non-petitioner No.2 personally appeared before the trial court and filed the compromise stating the facts noticed above.

In B.S.Joshi and Others Vs. State of Haryana and Another **(2003) 4 SCC 675**, Hon'ble Supreme Court held that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. Thus, the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 Cr.P.C. The wife therein filed an affidavit stating therein that the FIR was registered at her instance due to temperamental differences and implied

imputations. The Hon'ble Supreme Court held that there may be many reasons for not supporting the imputations and in such eventuality, there would almost be no chance of conviction. So it would not be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Hon'ble Supreme Court further held that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier and that would be against the object of S.498-A I.P.C.

Keeping in view the decision of the Hon'ble Supreme Court in B.S.Joshi & Ors. Vs. State of Harayana & Anr. (supra) and the fact that no evidence is likely to come against the present petitioners as the complainant has compromised the matter amicably, she does not have any grievance against the present petitioners and does not want to prosecute the complaint filed by her, no useful purpose will be served in allowing the criminal proceeding which ultimately has to culminate in acquittal for want of evidence. Therefore, to secure the ends of justice, the compromise deserves to be accepted and the proceeding deserves to be quashed.

In this view of the matter, petition is allowed. Order dt. 21.8.2006 passed by the Chief Judicial Magistrate, Bhilwara in

Cr. Regular Case No.314/2000 is set aside and the proceeding against the present petitioners pending before the trial court stands quashed.

[H.R.PANWAR],J.

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